SEP 15 1939
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No. 30

In the Supreme Court of the United States

OCTOBER TERM, 1939

THE UNITED STATES OF AMERICA, PETITIONER

v.

THE GLENN L. MARTIN COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR THE UNITED STATES

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OPINIONS BELOW

The opinion of the District Court (R. 10–14) is reported in 23 F. Supp. 262. The opinion of the Circuit Court of Appeals (R. 26–31) is reported in 100 F. (2d) 793.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered January 9, 1939 (R. 31). The petition for certiorari was filed April 8, 1939, and was granted May 1, 1939 (R. 32). The jurisdiction of this Court rests on Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

A contract for the sale of materials by the respondent to the United States provided that the latter would reimburse the former for any taxes thereafter imposed by Congress "applicable directly upon production, manufacture, or sale" of the articles covered by the contract. Are taxes imposed by Titles VIII and IX of the Social Security Act and by the Maryland Unemployment Compensation Law "applicable directly upon production, manufacture, or sale" within the contract, and, if so, is the tax imposed by the Maryland Unemployment Compensation Law (for which a credit is allowed against the tax imposed by Title IX of the Social Security Act) imposed by Congress within the contract?

STATUTES INVOLVED

The relevant portions of Titles VIII and IX of the Social Security Act, and of the Maryland Unemployment Compensation Law, are set out in the Appendix, *infra*, pp. 20–24.

STATEMENT

Respondent brought this action under the Tucker Act (28 U. S. C. Sec. 41 (20)), in the District Court for the District of Maryland to recover $7,737.32 claimed to be due on a contract with the United States. The facts as stipulated (R. 4–7) and as found by the District Court (R. 10–14) may be summarized as follows:

On June 28, 1934, respondent and the United States entered into a contract for the sale by the former to the latter of certain aircraft and aircraft materials (R. 4, 10). The contract contained the following provision (R. 10–11):

> (3) It is expressly understood and agreed to by and between the parties hereto that the prices herein stipulated include any Federal Tax heretofore imposed by the Congress which is applicable to the material called for under the terms of this contract. If any sales tax, processing tax, adjustment charge and other taxes or charges are imposed or changed by the Congress subsequent to the date of this contract and made applicable directly upon production, manufacture, or sale of the supplies called for herein, and are paid by the contractor on the articles or supplies herein contracted for, then the price herein stipulated will be increased or decreased accordingly and any amount due the contractor as the result of such change will be charged to the Government and entered on vouchers as separate items.

On August 14, 1935, Congress enacted the Social Security Act (c. 531, 49 Stat. 620), and on December 17, 1936, Maryland enacted the Maryland Unemployment Compensation Law (Laws of Maryland, Extraordinary Session, December, 1936, c. 1). Thereafter, in 1936, respondent paid $766,962.82 and in 1937 paid $2,256.48 in wages for labor allocable to the performance of the contract (R. 5, 11).

Based on the wages so paid, the respondent, for 1936, paid $766.96 to the Federal Government under Title IX of the Social Security Act, and $6,902.67 to Maryland under that state's Unemployment Compensation Law (R. 5, 11). Under the same laws, the respondent for 1937 paid $27.07 to the Federal Government ($4.51 under Title IX and $22.56 under Title VIII), and $40.62 to Maryland (R. 5, 11). The total paid to both governments for these years is $7,737.32, of which $794.03 was paid to the Federal Government and $6,943.29 to Maryland.

Respondent billed the Government for the $7,737.32 paid to both federal and state governments, and, when payment was refused (R. 11, 24–25), brought this suit to recover the full amount. The District Court held that the taxes in question were not "applicable directly upon production, manufacture, or sale" (R. 13) and gave judgment for the United States. It therefore did not decide whether the taxes paid to the State of Maryland were "imposed * * * by the Congress". The Circuit Court of Appeals held against the United States on both questions, and reversed the judgment of the District Court, remanding the case for a new trial (R. 31–32). Since there is no dispute respecting the facts, the decision of the Circuit Court of Appeals is equivalent to a judgment for taxpayer for the full amount paid to both federal and state governments.

SPECIFICATION OF ERRORS TO BE URGED

The Circuit Court of Appeals erred:

1. In holding that taxes imposed by the Federal Social Security Act and by the Maryland Unemployment Compensation Act are "applicable directly upon production, manufacture, or sale" within the meaning of the contract.

2. In holding that the taxes levied and collected by the State of Maryland under its Unemployment Compensation Act are taxes "imposed * * * by the Congress" within the meaning of the contract.

3. In reversing the judgment of the District Court.

SUMMARY OF ARGUMENT

1. The social security taxes paid by the respondent were not "applicable directly upon production, manufacture, or sale", but upon the relation of employment. *Helvering* v. *Davis,* 301 U. S. 619; *Steward Machine Co.* v. *Davis,* 301 U. S. 548; *Carmichael* v. *Southern Coal Co.,* 301 U. S. 495.

Even if the taxes could be considered as applicable upon manufacture or production, clearly they were not "directly" so applicable. This is clear from the contract itself, for it cites sales and processing taxes as examples of taxes applicable directly to production and sale. Those taxes, in contrast to an employment tax, are fixed only in terms of the volume or value of production or sale, and thus are applicable "directly" upon these processes.

Taxes cannot be said to be "applicable directly" to production, simply because they affect labor costs.

2. In any event, the amounts paid to Maryland and credited against the Federal tax were not imposed by Congress. The tax imposed by Congress is only the amount which is payable under the Federal act after all credits, deductions or other adjustments allowed in computing the ultimate amount to be paid have been given effect.

Even if it could be said that the entire tax in this case was theoretically "imposed" by the Federal Government, liability for the payment of the tax so imposed was at all times contingent, and to the extent of the 90 per cent credit allowance was eliminated by the payments to the State of Maryland. The contract specifies that the tax so imposed must also have been paid.

ARGUMENT

I

THE SOCIAL SECURITY TAXES PAID BY THE RESPONDENT WERE NOT "APPLICABLE DIRECTLY UPON PRODUCTION, MANUFACTURE, OR SALE" WITHIN THE CONTRACT

The pertinent language of the contract provides that the prices stipulated therein shall be increased by the amounts of (R. 10–11)—

> * * * any sales tax, processing tax, * * * and other taxes * * * imposed * * * by the Congress subsequent to the date of this contract and made

> applicable directly upon production, manufacture, or sale of the supplies called for * * * and * * * paid by the contractor on the articles or supplies * * *

The taxes for which the respondent claims reimbursement under this provision were paid by respondent under (1) Titles VIII and IX of the Social Security Act, each of which levies an excise tax on employers "with respect to having individuals in his employ", the tax being measured by wages paid, and (2), the Maryland Unemployment Compensation Law, which requires employers to pay contributions "with respect to wages payable for employment", measured by such wages.

The constitutional validity of the taxes levied by Titles VIII and IX was upheld by this Court in, respectively, *Helvering* v. *Davis*, 301 U. S. 619, and *Steward Machine Co.* v. *Davis*, 301 U. S. 548, and the validity of the taxes levied by the Alabama Unemployment Compensation Act, which is of the same type as the Maryland law, were upheld in *Carmichael* v. *Southern Coal Co.*, 301 U. S. 495. In those cases the taxes are described as "upon the relation of employment", *Steward Machine Co.* v. *Davis, supra*, 578; *Helvering* v. *Davis, supra*, 645, or as on "the right to employ," *Carmichael* v. *Southern Coal Co., supra*, 508. Throughout the two former opinions the taxes are referred to as upon "pay rolls".

These taxes are not "applicable directly upon production, manufacture, or sale" within the contract provision. They are not "applicable" upon production, manufacture, or sale at all, but upon the relation of employment, or the pay roll. Liability for the taxes is based upon the existence of the relationship of employment, without regard to whether the services rendered by the employee are in connection with production or manufacture. For the same reason, the taxes were not "paid by the contractor on the articles * * * contracted for."[1]

Even if these pay roll taxes could be considered as applicable upon manufacture or production and as paid on the articles contracted for, clearly they are not applicable "directly" upon manufacture or production. That is apparent both from the meaning ordinarily attached to "directly" and from the context in which that word was used in the contract. The parties did not agree to make adjustment for all new federal taxes which might affect or increase the cost of production, but only for sales taxes, processing taxes, or other taxes which have *direct* application to production, manufacture or sale. It may, *arguendo,* be conceded that a tax on employment is a tax imposed with respect to manufacture or production because of the ordinary connection of employment with those processes.

[1] The word "on" in this connection obviously means "with respect to" or "in connection with".

But the requirement that the tax be "*directly* applicable" to production, manufacture or sale is read out of the contract if the normal dependence of manufacture upon employment be made the basis of decision. Respondent, for example, must pay Social Security taxes on salaries paid employees on vacation or sick leave. Yet it cannot be argued that the beneficial and recuperative effect for the employees is an element *directly* relating to production of the airplanes under the Government contract. This point is made clear by the contract itself, for it cites sales and processing taxes as the examples of taxes applicable directly to production and sale.[2] Those taxes, in contrast to an employment tax, are fixed only in terms of the volume or value of production or sale, and thus are applicable "directly" upon these processes.

The allocation to the contract with the Government of the taxes for which the petitioner seeks reimbursement involves a complicated accounting procedure in which not only direct but also indirect or overhead labor costs are allocated to the respective contracts (R. 5–6).[3] No challenge is made to

[2] The principle of *ejusdem generis* is, of course, applicable here. Cf. *Swift & Co.* v. *Columbia Ry., Gas & Electric Co.*, 17 F. (2d) 46 (C. C. A. 4th); *Alabama* v. *Montague*, 117 U. S. 602; *O'Connor* v. *Great Lakes Pipe Line Co.*, 63 F. (2d) 523.

[3] The method of accounting employed by respondent is as follows (R. 5–6): "That the Plaintiff, in determining the costs allocable to each contract in process of completion in its plant follows the following accounting procedure;

the correctness of the method of accounting. Indeed it is conceded to be in accord with good accounting practice. (See R. 7, 28.) But its complexity well illustrates the indirect relation of the Social Security taxes to manufacture or production. Indeed, since the overhead labor costs allocated to the Government contract vary according to the volume of other business, respondent's method of accounting makes it abundantly plain that the employment tax is paid only as an indirect consequence of manufacture or production for the Government.

The contract provision here in question does not provide that any tax which affected the costs or profits of the respondent was to be taken into account and adjustments in price made. The parties could have agreed to do business on a cost-plus basis, but they did not see fit to do so. Compare *Cramp & Sons Ship Co.* v. *United States*, 72 C. Cls.

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namely, a record is maintained of all direct labor costs on each contract and such direct labor costs are charged monthly to such contract. All costs other than direct labor (which includes all mechanical labor in the factory, such as tool and engineering labor) are charged to overhead on a monthly basis and each contract bears its share of overhead charges on a percentage basis, that percentage being the quotient of the total overhead for the particular month divided by the total direct labor costs for such month. For example, if the total direct labor costs and the total overhead costs of one month for all contracts amounted to $100,000.00 and $50,000.00, respectively, the monthly overhead charges allocable to each contract would be 50% of the direct labor costs charged to such contract."

146. Instead they agreed, in effect, that the contractor would bear subsequently enacted taxes, unless "applicable directly upon production, manufacture, or sale." Many government contracts do provide for an "equitable adjustment" in connection with change orders involving increases or decreases in labor, time, material, etc., and the Comptroller General has ruled that under such contracts the contractor is entitled to be reimbursed for social security taxes directly chargeable to change orders. 16 Comp. Gen. 672 (1937). On the other hand, he has ruled that a contractor is not, under a contractual provision substantially identical with that here in issue, entitled to reimbursement for social security taxes. 16 Comp. Gen. 790 (1937). The decision states (p. 791):

> * * * the so-called social security taxes are not taxes on coal, or on the production or sale of coal, but are taxes on the contractor "with respect to having individuals in his employ." It may be that such social security taxes increased your cost of production of coal from the mines, but the tax is not "applicable directly upon production, manufacture, or sale of" the coal required to be delivered under the contracts.

While precedents in other fields cannot be very persuasive as to the meaning of the term "applicable directly" in the contract provision here involved, a possible analogy may be found in the cases dealing with the supposed immunity of state instru-

mentalities from federal taxation. In *Liggett & Myers Co.* v. *United States*, 299 U. S. 383, a federal tax on tobacco sold to a state was upheld upon the ground that the tax was upon the manufacture of the tobacco, and not upon the sale; although the duty of payment was postponed until removal or sale, that tax imposed no "direct burden" upon the purchaser and "the effect upon the purchaser was indirect" (299 U. S. 383, 386). It seems to have been on this ground that the Court distinguished *Indian Motocycle Co.* v. *United States*, 283 U. S. 570, in which it had held invalid a federal sales tax as applied to goods purchased by a municipality. So, too, in *Wheeler Lumber Co.* v. *United States*, 281 U. S. 572, 579, the Court sustained a transportation tax on the vendor who shipped f.o.b. to a county because "the transportation was not part of the sale but preliminary to it and wholly the vendor's affair." While we do not believe the *Indian Motocycle* case still to be good law, the *Liggett & Myers* and *Wheeler Lumber* cases are persuasive indications of the "indirect" relation of social security taxes to manufacture or sale.

Another analogy may be found in the interstate commerce cases. The states are powerless to impose a gross receipts tax or sales tax on interstate sales where the taxpayer is in danger of cumulative burdens. *Western Live Stock* v. *Bureau*, 303 U. S. 250, 255–256; *Gwin, Etc., Inc.* v.

Henneford, 305 U. S. 434, 439. Such a tax is considered to lay a "direct burden" on interstate commerce. See *Crew Levick Co.* v. *Pennsylvania,* 245 U. S. 292, 297. But none would argue that state social security taxes are forbidden by the commerce clause when the goods to be produced by the employees are intended for interstate delivery. See *Western Live Stock* v. *Bureau,* 303 U. S. 250, 259; *Utah Power & Light Co.* v. *Pfost,* 286 U. S. 165; *Federal Compress & W. Co.* v. *McLean,* 291 U. S. 17, 22; *Chassanoil* v. *Greenwood,* 291 U. S. 584.

The court below, in holding that the taxes here involved are "applicable directly" upon manufacture or production, cited the language of this Court in *Steward Machine Co.* v. *Davis,* 301 U. S. 548, 581, that:

> The power to tax the activities and relations that constitute a calling considered as a unit is the power to tax any of them. The whole includes the parts.

From that statement it drew the conclusion that the taxes are directly applicable upon the manufacture or production of the articles called for by the contract, since employment is necessary to both manufacture and production (R. 28.). But to say that in this case employment is indispensable to manufacture or production is not to say that a tax upon employment is directly applicable upon manufacture or production. Numerous other relationships or activities might be necessary to manufacture or production, such as the importation of goods from

abroad or the rental or ownership of property. But obviously a tax on those activities would not be directly applicable upon manufacture or production. If "applicable directly" means anything it means applicable to the activities of manufacture or production themselves. Taxes which might affect production or manufacture cannot be said to be "applicable directly" thereto, simply because of that effect.

II

THE AMOUNTS PAID TO MARYLAND AND CREDITED AGAINST THE FEDERAL TAX WERE NOT IMPOSED BY CONGRESS WITHIN THE MEANING OF THE CONTRACT

Of the $7,737.32 total taxes paid by the respondent for both of the years involved, only $794.03 was paid to the Federal Government; the balance of $6,943.29 was paid to the State of Maryland under Maryland's Unemployment Compensation Law, Laws of Maryland, Extraordinary Session, December, 1936, c. 1.

There seems to be no warrant whatever for the conclusion of the court below that taxes imposed, levied and collected by the State of Maryland are taxes "imposed * * * by the Congress" simply because they may be credited against the tax imposed by Title IX of the Social Security Act, up to 90 percent of the latter tax. The tax "imposed * * * by the Congress" is only the

amount which is payable under Title IX after all credits, deductions or other adjustments allowed in computing the ultimate amount to be paid have been given effect. Credit or other adjustment for taxes levied by states and foreign governments has long been allowed in determining the amount of federal income and estate taxes to be paid, but no one has ever supposed and no court has suggested, so far as we find, that such state or foreign taxes were taxes imposed by the United States because the United States allowed a credit for such taxes in computing the amount which it would collect.

Generally speaking, it might be said that the Federal Government was instrumental in the adoption of the entire body of social security laws, but it cannot be seriously argued that the taxes which the respondent paid into the treasury of the State of Maryland, pursuant to the Maryland statute, were imposed by the Federal Government. If Maryland had adopted its law under coercion by the Federal Government, it might be that the taxes levied by Maryland could, under a sufficiently determined theory of ultimate cause, be said to have been "imposed * * * by the Congress." But in *Steward Machine Co.* v. *Davis,* 301 U. S. 548, this Court held that Title IX did not coerce the states to adopt unemployment compensation. In that case, this Court recognized (p. 588) that many of the states had not enacted social security legisla-

tion, not because of a lack of sympathetic interest, but because of fear of placing themselves in a position of economic disadvantage as compared with neighboring states. It therefore remained for the Federal Government to protect against such fear, by providing for a tax contingent upon nonaction by the respective states, thus leaving the matter of social security relief fundamentally in the hands of the respective states. Though the state statute might well have been induced by the Federal Act, the taxpayer "pays in fulfilment of the mandate of the local legislature". *Steward Machine Co.* v. *Davis*, 301 U. S. 548, 589.

In the related case of *Carmichael* v. *Southern Coal Co.*, 301 U. S. 495, in discussing the relationship of the Alabama social security legislation to the Federal Social Security Act, this Court said (p. 526):

> Together the two statutes now before us embody a cooperative legislative effort by state and national governments, for carrying out a public purpose common to both, which neither could fully achieve without the cooperation of the other. The Constitution does not prohibit such cooperation.
>
> As the state legislation is not the product of a prohibited coercion, there is little else to which appellees can point as indicating a surrender of state sovereignty. As the opinion in the *Chas. C. Steward Machine Co.*

case points out, full liberty of action is secured to the state by both statutes.

Even if it could be said that the entire tax in this case was theoretically "imposed" by the Federal Government,[4] liability for the payment of the tax so imposed was at all times contingent, and, to the extent of the 90% credit allowance, the tax which was so imposed by the Federal Government was eliminated by the payments to the State of Maryland. The mere imposition in this broad sense was not what the parties contemplated, for the contract makes plain that they intended that the tax so imposed must also have been paid. The tax which, under this theory, the Federal Government imposed was never paid. Instead, the respondent paid a tax to the State of Maryland, whose legislature imposed that tax, and in turn received a credit to that extent on the federal tax.

Consideration of what the parties must have intended by the words "imposed * * * by the Congress" leads likewise to the conclusion that taxes levied by state laws were not meant to be covered. The apparent purpose of the provision

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[4] Section 902 (Title IX) of the Social Security Act provides:

"The taxpayer may credit against the tax *imposed* by section 901 the amount of contributions * * * paid by him * * * into an unemployment fund under a State law * * *". (Italics added.)

was that the Government should reimburse the contractor for certain types of subsequently imposed federal taxes which the Government itself received. It might not be necessary for the contractor to show that it paid the taxes directly to the Federal Government,[5] but it cannot be thought that it was intended that the Federal Government should reimburse respondent for taxes paid to some other government.

Batavia Mills v. *United States*, 85 C. Cls. 447, which was relied upon by the court below upon this point is not pertinent. The contract in that case provided, "* * * if any new taxes are made applicable to such supplies by Congress * * * the prices named in this contract will be increased or decreased accordingly." Thereafter Congress, by the Agricultural Adjustment Act, c. 25, 48 Stat. 31, imposed a processing tax which was paid on the contract materials by the manufacturer, and passed on by him to the contractor. There was no question that Congress had imposed the tax; the only question was whether the contractor was barred from recovering because he had not paid the tax directly to the United States. The Court held that he was not.

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[5] Cf. *Batavia Mills* v. *United States*, 85 C. Cls. 447, discussed below.

CONCLUSION

The decision of the court below is erroneous and should be reversed.

Respectfully submitted.

ROBERT H. JACKSON,
Solicitor General.
SAMUEL O. CLARK, JR.,
Assistant Attorney General.
SEWALL KEY,
JOSEPH M. JONES,
Special Assistants to the Attorney General.
THOMAS HARRIS,
Attorney.

SEPTEMBER 1939.

APPENDIX

Social Security Act, c. 531, 49 Stat. 620:

TITLE VIII—TAXES WITH RESPECT TO EMPLOYMENT

* * * * *

EXCISE TAX ON EMPLOYERS

SEC. 804. In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 811) paid by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

* * * * *

(U. S. C. Supp. IV, Title 42, Sec. 1004.)

COLLECTION AND PAYMENT OF TAXES

SEC. 807. (a) The taxes imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. * * *

(U. S. C. Supp. IV, Title 42, Sec. 1007.)

DEFINITIONS

SEC. 811. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash

value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

[Exceptions not pertinent.]

(U. S. C. Supp. IV, Title 42, Sec. 1011.)

TITLE IX—TAX ON EMPLOYERS OF EIGHT OR MORE

IMPOSITION OF TAX

SECTION 901. On and after January 1, 1936, every employer (as defined in section 907) shall pay for each calendar year an excise tax, with respect to having individuals in his employ, equal to the following percentages of the total wages (as defined in section 907) payable by him (regardless of the time of payment) with respect to employment (as defined in section 907) during such calendar year:

(1) With respect to employment during the calendar year 1936 the rate shall be 1 per centum;

(2) With respect to employment during the calendar year 1937 the rate shall be 2 per centum;

* * * * *

(U. S. C. Supp. IV, Title 42, Sec. 1101.)

CREDIT AGAINST TAX

SEC. 902. The taxpayer may credit against the tax imposed by section 901 the amount of contributions, with respect to employment during the taxable year, paid by him (before the date of filing his return for the taxable year) into an unemployment fund under a State law. The total credit allowed to a taxpayer under this section for all contributions paid into unemployment funds with respect to employment during such taxable year shall not exceed 90 per centum of the tax against which it is credited, and credit shall be allowed only for contributions made under the laws of States certified for the taxable year as provided in section 903. (U. S. C. Supp. IV, Title 42, Sec. 1102.)

CERTIFICATION OF STATE LAWS

SEC. 903. (a) The Social Security Board shall approve any State law submitted to it, within thirty days of such submission, which it finds provides that—

[Requirements not pertinent.]

(U. S. C. Supp. IV, Title 42, Sec. 1103.)

ADMINISTRATION, REFUNDS, AND PENALTIES

SEC. 905. (a) The tax imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. * * * (U. S. C. Supp. IV, Title 42, Sec. 1105.)

DEFINITIONS

SEC. 907. When used in this title—

(a) The term "employer" does not include any person unless on each of some

twenty days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was eight or more.

(b) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash.

(c) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

[Exceptions not pertinent.]

(U. S. C. Supp. IV, Title 42, Sec. 1107.)

Maryland Unemployment Compensation Law, Laws of Maryland; Extraordinary Session, December, 1936, c. 1:

CONTRIBUTIONS

7. (a) *Payment.*—

(1) On and after January 1, 1936, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages payable for employment (as defined in section 19 (g)) occurring during such calendar year. Such contributions shall become due and be paid by each employer to the Board for the fund in accordance with such regulation as the Board may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(*b*) *Rate of Contribution.*—

Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) Nine-tenths of 1 per centum with respect to employment during the calendar year 1936;

(2) One and eight-tenths per centum with respect to employment during the calendar year 1937;

(3) Two and seven-tenths per centum with respect to employment during the calendar years 1938 and thereafter.

U. S. GOVERNMENT PRINTING OFFICE: 1939